

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF PENNSYLVANIA

MATTHEW HERBERT, :

Plaintiff :

-vs- : NO. 3:CV-05-2152

GENERAL MOTORS CORP, et al., : (Judge Kosik)

Defendants :

## MEMORANDUM AND ORDER

In their brief opposing plaintiff's motion to substitute guardians for the plaintiff, the Takata defendants claim the requested substitution may result in improper issue preclusion claims by plaintiff, which, in turn, will be a prejudicial impediment to the defense litigating the extent of plaintiff's injuries. There is some tactical sense to this if issue preclusion is intended. If issue preclusion is not implicated because of plaintiff's adjudication as an incompetent occurred without defendant's participation, we see less of a problem.

We request plaintiff's reply as well as any other authority defendants may wish to submit. I am also concerned how the competency adjudication is going to impact on plaintiff as a witness either in his own case or as a witness called by the defense.

s/Edwin M. Kosik  
United States District Judge

Date: November 1, 2006